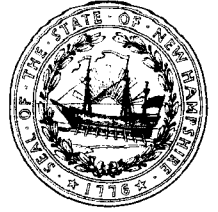




The State of New Hampshire  
**Department of Environmental Services**



Michael P. Nolin  
Commissioner

Jennifer McDonald  
1053 New Hampshire Rte. 4A  
Enfield, NH 03748

Re: Failed Septic System, Approval  
#188702

**ADMINISTRATIVE ORDER**  
**No. WD 05-026**

August 10, 2005

**A. INTRODUCTION**

This Administrative Order is issued by the Department of Environmental Services, Water Division to Jennifer McDonald pursuant to RSA 485-A:42, I. This Administrative Order is effective upon issuance.

**B. PARTIES**

1. The Department of Environmental Services, Water Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, NH.
2. Jennifer McDonald is an individual having a mailing address of 1053 New Hampshire Route 4A, Enfield, NH 03748.

**C. STATEMENTS OF FACTS AND LAW**

1. RSA 485-A:29-44 authorizes DES to regulate the subdivision of land and the construction, maintenance, and repair/replacement of individual sewage disposal systems ("septic systems"). Pursuant to rulemaking authority conferred therein, the Commissioner of DES has adopted Env-Ws 1000 to implement this program.
2. Jennifer McDonald is the owner of property located at 1053 New Hampshire Route 4A, Enfield, New Hampshire, further described in Town of Enfield tax records as Map #39, Lot #16 ("the Property").
3. The Property is served by an individual private septic system.
4. RSA 485-A:37 requires that owners of individual subsurface septic systems operate and maintain those systems in a manner to prevent a nuisance or potential health hazard due to failure of the system.
5. Env-Ws 1023.05 establishes parameters for determining failure of a leach field, and requires action to be taken to correct the problem when failure is discovered.

6. On April 3, 2005, officials of the Town of Enfield inspected the Property and found raw sewage visible on the ground above the leach field. The leach field was determined to be in failure.
7. On April 5, 2005, DES issued Letter of Deficiency WD SS 05-05 to Jennifer McDonald, requesting that she take necessary steps to have a new septic design prepared, approved by DES, and installed by a licensed septic installer.
8. To date, Ms. McDonald has failed to take any of the requested actions, and the septic system on the Property remains failed.

#### **D. DETERMINATION OF VIOLATIONS**

1. Jennifer McDonald has violated RSA 485-A:37 by failing to maintain her septic system in good working order and prevent a nuisance or threat to public health.
2. Jennifer McDonald has violated Env-Ws 1023.05 by failing to take corrective action upon a finding of failure of her septic system

#### **E. ORDER**

Based on the above findings, DES hereby orders Jennifer McDonald as follows:

1. **By August 20, 2005**, engage a septic system designer to prepare and submit septic plans and specifications to DES for the total waste load generated on the Property.
2. **By September 15, 2005**, submit plans for approval to construct the system.
3. **Within 30 days of approval from DES**, construct the system and request approval to cover and use the system.
4. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

Richard J. de Seve, Compliance Supervisor  
Subsurface Systems Bureau  
DES Water Division  
P.O. Box 95  
Concord, NH 03302-0095  
Fax: (603) 271-3442  
e-mail: rdeseve@des.state.nh.us

#### **F. APPEAL**


Any person aggrieved by this Order may appeal the Order to the Water Council by filing an appeal that meets the requirements specified in Env-Wc 200 within 30 days of the date of this

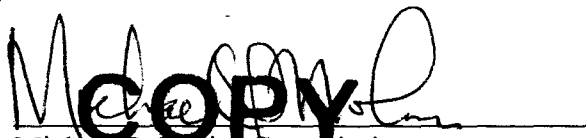
Order. Copies of the rule are available from the DES Public Information Center at (603) 271-2975 or at <http://www.des.state.nh.us/desadmin.htm>. Appealing the Order does not automatically relieve Jennifer McDonald of the obligation to comply with the Order.

#### G. OTHER PROVISIONS

Please note that RSA 485-A:43 provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. Jennifer McDonald remains obligated to comply with all applicable requirements, in particular repairing or replacing her failed septic system. DES will continue to monitor Jennifer McDonald's compliance with applicable requirements and will take appropriate action if additional violations are discovered.

This Order is being recorded in the Grafton County Registry of Deeds so as to run with the land.

  
**COPY**  
Harry T. Stewart, P.E., Director  
Water Division

  
**COPY**  
Michael P. Nolin, Commissioner  
Department of Environmental Services

**Certified Mail/RRR: 7099 3400 0002 9773 0581**

cc: Gretchen R. Hamel, Legal Unit Administrator ✓  
Public Information Officer, DES PIP Office  
Jennifer J. Patterson, Sr. Asst. Attorney General, NHDOJ/EPB  
P. Niely, Town of Enfield Health Officer  
Richard J. de Seve, DES/SSB